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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 LESLIE NELSON,) CASE NO. C05-2116-TSZ
09)
Plaintiff,)
10)
v.) REPORT AND RECOMMENDATION
11)
FBI, SEATTLE,)
12)
Defendant.)
13

14 Plaintiff submitted an *in forma pauperis* application and a civil complaint. (Dkt. 1.) She
15 professes to have research material pertinent to issues of national security, but fails to show how
16 the information contained within her complaint suffices to present a justiciable claim.

17 Under 28 U.S.C. § 1915(e)(2)(B), the Court may deny an application to proceed *in forma*
18 *pauperis* and should dismiss an action if, among other things, it is frivolous or the complaint fails
19 to state a claim upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(ii);
20 *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990). An action is frivolous if “it lacks an
21 arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

22 This action is subject to dismissal under 28 U.S.C. § 1915(e)(2)(B) and Federal Rule of

Civil Procedure 12(b)(6). Plaintiff's allegations are frivolous. She fails to allege facts demonstrating a justiciable claim. *See* Fed. R. Civ. P. 12(b)(6). Nor has plaintiff alleged sufficient facts to place defendant on notice of the nature of her claim. *See* Fed. R. Civ. P. 8(a)(2).

The Court advises plaintiff of her responsibility to research the facts and law before filing an action to determine whether the action is frivolous. If she files a frivolous action, she may be sanctioned. *See* Fed. R. Civ. P. 11. The Court would likely impose a sanction of dismissal on any frivolous action. If plaintiff files numerous frivolous or malicious actions, the Court may bar her from proceeding *in forma pauperis* in this Court. *See DeLong v. Hennessey*, 912 F.2d 1144, 1146-48 (9th Cir. 1990) (discussing bar order requirements).

Accordingly, because of the deficiencies in plaintiff's complaint, her *in forma pauperis* application should be denied and this action dismissed without prejudice. *See* 28 U.S.C. § 1915(e)(2)(B) (requiring *sua sponte* dismissal); *Wong v. Bell*, 642 F.2d 359, 361-62 (9th Cir. 1981) (permitting *sua sponte* dismissal). **If plaintiff believes that the deficiencies outlined herein can be cured by an amendment to her complaint, she should lodge an amended complaint as a part of her objections, if any, to this Report and Recommendation.** A proposed Order of Dismissal accompanies this Report and Recommendation.

DATED this 3rd day of January, 2006.


Mary Alice Theiler
United States Magistrate Judge